

Message Text

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ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 AGR-05 OIC-02 AF-10
ARA-10 EA-10 EUR-12 NEA-11 DOEE-00 SSO-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
OMB-01 DOE-15 OES-07 /181 W
-----012921 211715Z /41

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FM USMISSION GENEVA
TO SECSTATE WASHDC PRIORITY 1169

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USMTN

STR FOR ACTION

STR PASS CODEL

E.O. 11542: N/A
TAGS: MTN, ETRD
SUBJECT: GOVERNMENT PROCUREMENT--PLURILATERAL DRAFTING
- GROUP - JUNE 14-15

REF: (A) GENEVA 08974; (B) GENEVA 9123

1. SUMMARY: PLURILATERAL DRAFTING GROUP (U.S., EC, JAPAN, CANADA, NORDICS, SWITZERLAND) MET, SUBSEQUENT TO SUBGROUP MEETING, FOR EXTENSIVE DISCUSSION ON SPECIAL AND DIFFERENTIAL TREATMENT (S&D) FOR LDC'S AND FINAL PROVISIONS. CANADIAN DEL ALSO OUTLINED NEW GOC POSITION ON EX ANTE PUBLICITY. END SUMMARY.

2. CANADIAN POSITION--CANADIAN DEL (CLARK) STATED
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THAT GOC HAD CHANGED ITS POSITION ON EX ANTE PUBLICITY (REF (A)) AND NOW AGREES TO PUBLISH A NOTICE OF EACH PROPOSED PURCHASE AND TO ALLOW ANY QUALIFIED SUPPLIER TO TENDER IN ANY PURCHASE. AS A RESULT OF THIS NEW POSITION, GOC RECOMMENDS THAT PARA 5 OF TENDERING PROCEDURES SECTION BE DELETED. CLARK INDICATED THAT CHANGE IN GOC POSITION WAS CONDITIONED ON GOJ

AND EC ACCEPTANCE OF SIMILAR EX ANTE PUBLICITY AND ON EC AGREEMENT TO ACCEPTABLE EX POST INFORMATION. JAPANESE DEL (ABE) STATED THAT GOJ HAD MADE TREMENDOUS CONCESSION BY CHANGING ITS POSITION ON EX ANTE PUBLICITY, BUT HE DID NOT SEE GOJ GOING MUCH FURTHER. U.S. DEL (SHELLEY), SUPPORTED BY NORDIC DEL (LEMMEL), STRESSED THAT COMPLETE EX ANTE PUBLICITY, INCLUDING RIGHT FOR ANY SUPPLIER TO SUBMIT A TENDER, WAS ESSENTIAL TO ENSURE FAIR AND NON-DISCRIMINATORY PROCUREMENT. EC DEL (DERISBOURG) INDICATED THAT THE EC WAS READY TO MOVE ON BOTH EX ANTE AND EX POST. COMMENT: THE FOLLOWING DAY DERISBOURG DISTRIBUTED A PAPER TO PLURILATERAL GROUP ON EX ANTE PUBLICITY (HAND-CARRIED TO WASHINGTON BY KUWABARA). DERISBOURG PRIVATELY SAID THAT POSITION DESCRIBED REF (B) WAS FINAL POSITION, BUT THAT EC WAS NOT YET PREPARED TO "GO PUBLIC". END COMMENT.

3. S&D: EC/NORDICS DISTRIBUTED NEW DRAFT ON S&D (HAND-CARRIED TO WASHINGTON BY KUWABARA). ALL DELS SUPPORTED VIEW THAT S&D COULD NOT CHANGE BASIC PRINCIPLES OF CODE. EC/NORDIC DRAFT, IN MTN DEL OPINION, GOES LONG WAY TO ACCEPTABLE S&D PACKAGE. DRAFT HAS SEVERAL "OPTICAL" PROVISIONS, BUT FEW SUBSTANTIVE OBLIGATIONS.
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- (A) PARA 1 OF DRAFT IS TAKEN FROM INDIAN POSITION. ITS EFFECT IS TO ACCEPT AS A GENERAL PRINCIPLE THE FACT THAT DEVELOPING COUNTRIES, LIKE DEVELOPED COUNTRIES, USE GP FOR INTERNAL ECONOMIC NEEDS. AS DRAFTED HOWEVER, DEVELOPED COUNTRIES INCUR NO OBLIGATION IN PARA 1, EXCEPT TO RECOGNIZE THE ECONOMIC DEVELOPMENT FACT OF LIFE.

- (B) PARA 2 HAS NO SUBSTANTIVE MEANING EXCEPT THAT, PER SE, THE EFFECT OF THE GP CODE WILL BE TO FACILITATE TRADE.

- (C) PARA 3 IS THE OPERATIVE S&D PROVISION. THE FIRST PART CONCERNS S&D TO ENCOURAGE INITIAL LDC PARTICIPATION AT THE TIME THE AGREEMENT GOES INTO EFFECT. THE SECOND PART CONCERNS S&D AFTER THE AGREEMENT IS IMPLEMENTED. THE PROPOSED S&D CONSISTS OF NEGOTIATED SPECIFIC AND TIME-LIMITED DEROGATIONS. THE DEROGATIONS COULD REFLECT LESSER ENTITY COVERAGE AND/OR, FOR A SPECIFIC PERIOD OF TIME, NON-APPLICATION OF CERTAIN CODE PROVISIONS. THIS APPROACH WOULD

ALLOW PRACTICAL S&D, AND YET THROUGH THE NEGOTIATING
PROCESS LIMIT ITS EXTENT.

- (D) PARA 4 RECOGNIZES THE EXISTENCE OF GSP.
- (E) PARA 5 IS A GRADUATION PROVISION.
- (F) PARAS 6-8 FOR LLDC'S ARE WRITTEN TO ALLOW
EACH SIGNATORY TO AUTONOMOUSLY DECIDE WHETHER TO
GRANT SPECIAL PROVISIONS, AND IF SO - WHATEVER PROVISIONS
IT WISHES FOR WHAT EVER COUNTRIES IT CHOOSES.
THE LIST OF "29" IS ILLUSTRATIVE AND NOT MANDATORY.
- (G) THE REST OF THE DRAFT CONCERNS TECHNICAL
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ACTION STR-07

INFO OCT-01 IO-13 ISO-00 STRE-00 OIC-02 AF-10 ARA-10
EA-10 EUR-12 NEA-11 DOEE-00 SSO-00 AGR-01 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
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ASSISTANCE AND INFORMATION CENTER.

RECOMMENDATION: MTN DEL BELIEVES EC/NORDIC PROPOSAL IS A REALISTIC APPROACH TO S&D. PLURILATERAL GROUP AGREED TO MEET WITH SELECTED LDC'S ON JUNE 28 TO DISCUSS INTEGRATED TEXT ON S&D. MTN DEL WOULD RECOMMEND THAT USG BE IN A POSITION TO SUPPORT THIS APPROACH AND TEXT, WITH MODIFICATIONS, AT JUNE 28 MEETING.

4. FINAL PROVISIONS: PLURILATERAL GROUP DISCUSSION ON FINAL PROVISIONS PROGRESSED QUICKLY THROUGH REVISED VERSION OF SECRETARIAT TEXT (HAND-CARRIED TO WASHINGTON BY KUWABARA). MOST OF THE DISCUSSION CENTERED ON IDEAS IN SCOPE AND COVERAGE DRAFT PREVIOUSLY DISTRIBUTED BY CANADIAN DEL, AND DELS AGREED THAT SUBSTANCE OF CANADIAN PAPER MORE APPROPRIATELY LIMITED OFFICIAL USE

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BELONGED IN FINAL PROVISIONS. GATT SECRETARIAT WAS ASKED TO REDRAFT FINAL PROVISIONS TAKING INTO ACCOUNT DISCUSSIONS. IN PARTICULAR, SECRETARIAT WAS ASKED TO COME UP WITH LANGUAGE FOR THREE PROVISIONS: (1) NON-SUBSTANTIVE CHANGES TO ENTITY COVERAGE; (2) PERIODIC NEGOTIATION, AT LEAST EVERY FIVE YEARS, TO ENLARGE COVERAGE OF CODE; AND (3) PROCEDURES FOR WITHDRAWING OR MODIFYING CODE COVERAGE. NON-SUBSTANTIVE CHANGES WOULD BE HANDLED THROUGH A SIMPLE NOTIFICATION PROCEDURE TO THE COMMITTEE OF SIGNATORIES FOR ITS EXAMINATION. THE PERIODIC NEGOTIATIONS WOULD BE A DEFINITIVE AND AFFIRMATIVE OBLIGATION TO INCREASE COVERAGE OVER TIME. FOR CHANGE OF COVERAGE, SUCH AS WITHDRAWAL OF AN ENTITY, A SIGNATORY WOULD BE REQUIRED TO JUSTIFY ITS ACTION BEFORE THE COMMITTEE OF SIGNATORIES. IF THE COMMITTEE BELIEVES THE JUSTIFICATION DOES NOT SUPPORT THE ACTION, THE WITHDRAWING SIGNATORY WILL BE REQUIRED TO NEGOTIATE COMPENSATION, EITHER BY INCREASING COVERAGE ELSEWHERE OR BY OTHER COUNTRIES WITHDRAWING RECIPROCAL COVERAGE. GATT SECRETARIAT PAPER WILL BE DISCUSSED DURING THE WEEK OF JUNE 26.

5. DRAFTED BY SHELLEY. CULBERT

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